



Nebraska Sales and Use Tax AGRI-BUSINESS Spring 2012

[name]
[\[name\]@nebraska.gov](mailto:[name]@nebraska.gov)
[number]
www.revenue.ne.gov

This PowerPoint handout is used for training purposes in conjunction with the oral presentation given by Departmental training staff.

It is not intended to be a stand-alone document.

It is not an information guide, nor does it carry regulatory or statutory authority.

Nebraska tax statutes, regulations, information guides, and other resources are available at www.revenue.ne.gov.

Agri-Business
Spring 2012 - 2



Subscription Service

Powered by get the word out.
GOVDELIVERY

- Receive notification of changes to topics of interest using the FREE web-based email subscription system.
- Set up a PROFILE – enter your email address, optional password, and select the topics of interest.
- You can change your PROFILE at any time by adding or deleting topics, changing the frequency of email alerts, or changing your email address.
- No special software – all you need is a valid email address and an Internet browser!

www.revenue.ne.gov

Agri-Business
Spring 2012 - 3

TODAY'S AGENDA

1. Overview of Sales and Use Tax
2. Agricultural Machinery and Equipment
3. Repair and Replacement Parts
4. Personal Property Tax
5. Contractor Issues
6. Purchases that Do Not Qualify
7. Agricultural Feed, Seeds and Plants, Medicines, Chemicals, & Water
8. Water & Energy Source Utility Exemption

Agri-Business
Spring 2012 - 4

1.

OVERVIEW OF SALES AND USE TAX

Agri-Business
Spring 2012 - 5

1. OVERVIEW OF SALES AND USE TAX

- What is a **sales transaction**?
 - Sales tax is calculated on the **gross receipts**.
 - **Delivery location** determines the rate of local tax.
 - Retailers must **collect and report sales tax or document** why they didn't.
- What is **use tax**?

Agri-Business
Spring 2012 - 6

What is a Sales Transaction?

A **SALE** is

- the transfer of title or possession,
- of an item or taxable service,
- for consideration.

Agri-Business
Spring 2012 - 7

Sales Transaction (continued)

SALES TAX is

- a transactional tax,
- based on the transaction,
- rather than the item sold.

Agri-Business
Spring 2012 - 8

THE BOTTOM LINE FOR SALES TAX

Retailers must collect sales tax
– OR –
document why they did not.

Agri-Business
Spring 2012 - 9

What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are **not BOTH due** on the same transaction.
- The big difference is **who** remits the tax -
 - **Sales tax** is collected and remitted by the **seller**.
 - **Use tax** is paid directly to the Department by the **purchaser/consumer**.

Agri-Business
Spring 2012 - 10

Use Tax (continued)

Use tax and sales tax have these things in common -

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate
 - Where delivery occurs
 - OR
 - Where first usage in Nebraska takes place.

Agri-Business
Spring 2012 - 11

Use Tax (continued)

- Often due when purchases are made from an **out-of-state seller**
 - Internet, catalog, mail order
 - Magazines and journals by subscription
- Due when the business withdraws **tax-free inventory** for business or personal use (including donations)
 - Auto mechanic
 - Hair salon

Agri-Business
Spring 2012 - 12

2. AGRICULTURAL MACHINERY AND EQUIPMENT

Agri-Business
Spring 2012 - 13

2. AGRICULTURAL (AG) MACHINERY & EQUIPMENT

Purchases of ag equipment are sales and use tax exempt when **ALL THREE** of these criteria are met (refer to [Reg-1-094](#)):

- 2A. The item is used directly in **commercial agriculture**;
- 2B. The item meets the definition of **ag equipment**; and
- 2C. The purchaser properly completes a [Form 13](#), Section B.

Agri-Business
Spring 2012 - 14

2A. Commercial Agriculture

Commercial agriculture is:

- Producing food products or other useful and valuable crops;
- OR -
- Raising or caring for animals.

The crops or animals can either be sold or used by the farmer/rancher to produce other products for sale.

Agri-Business
Spring 2012 - 15

2A. Commercial Agriculture (continued)

Commercial agriculture also includes commercial production in:

- Feedlots;
- Greenhouses;
- Nurseries;
- Sod farms; and
- Tree farms.

Agri-Business
Spring 2012 - 16

2A. Commercial Agriculture (continued)

Commercial agriculture
DOES NOT include:

- Animals in sale barns;
- Animals in stockyards;
- Storage of products in commercial elevators; or
- Storage of products off the farm.

Agri-Business
Spring 2012 - 17

2B. Ag Equipment

Ag equipment:

- Must be depreciable tangible personal property, **EVEN IF** the owner chooses not to depreciate it for income tax purposes;
- Has a determinable life of more than 1 year; and
- Is used in commercial agriculture for the production of income.

Agri-Business
Spring 2012 - 18

2B. Ag Equipment (continued)

- **LEASES** of qualified ag equipment are exempt from sales and use taxes when used directly in commercial agriculture.
- The **LESSEE** must give a [Form 13](#), Section B to the lessor.

Agri-Business
Spring 2012 - 19

2B. Ag Equipment (continued)

Ag equipment **DOES NOT** include:

- Real estate;
- Licensable motor vehicles;
- Equipment used in processing at a commercial facility;
- Well drilling equipment; or
- Office equipment.

Agri-Business
Spring 2012 - 20

2B. Ag Equipment (continued)

Qualified ag equipment is exempt from sales and use taxes **when purchased at an auction...**

...provided the purchaser gives the auctioneer a properly completed [Form 13](#), Section B, Category 2.

Agri-Business
Spring 2012 - 21

2C. Form 13, Section B

Nebraska Department of REVENUE		Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption		FORM 13
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER		RESET FORM
Name		Name		
Street or Other Mailing Address		Street or Other Mailing Address		
City	State	City	State	Zip Code
Check Type of Certificate				
<input type="checkbox"/> Single Purchase <input checked="" type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.				
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:				
Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input checked="" type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)				
SECTION B—Nebraska Exempt Sale Certificate				
The basis for this exemption is exemption category 2 (Insert appropriate category as described on reverse of this form.)				
If exemption category 2 or 5 is claimed, enter the following information:				
Description of Item(s) Purchased	Intended Use of Item(s) Purchased			
Combine	commercial agriculture			
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number: 05-				
If exemption category 6 is claimed, seller must enter the following information and sign this form below:				
Description of Item(s) Sold	Date of Seller's Original Purchase	Was Tax Paid when Purchased by Seller?	Was Item Depreciable?	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	

For more detailed information, refer to the [Form 13 instructions](#).

Agri-Business
Spring 2012 - 22

3.

REPAIR & REPLACEMENT PARTS FOR AG EQUIPMENT

Agri-Business
Spring 2012 - 23

3. REPAIR & REPLACEMENT PARTS FOR AG EQUIPMENT

- **NOT** exempt from sales and use taxes.
- Sellers cannot accept a Form 13 to exempt these sales.
- Repair labor is tax exempt **PROVIDED** it is separately stated on the customer's invoice.

Agri-Business
Spring 2012 - 24

3. Repair & Replacement Parts (continued)

- **HOWEVER**, the purchaser may apply for a refund of the tax if:
 - The repair parts are depreciable; and
 - The property repaired is qualified ag equipment.
- To obtain a refund, file a [Form 7AG-1](#) within 3 years of the date of purchase.

Agri-Business
Spring 2012 - 25

Form 7AG-1

Nebraska Department of Revenue		Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases		FORM 7AG-1	
Federal Employee I.D. or Social Security Number		PLEASE DO NOT WRITE IN THIS SPACE			
NAME AND MAILING ADDRESS OF PURCHASER/LESSEE		County where property will be located for property taxation (a copy of this claim will be forwarded to the appropriate county assessor and all property listed herein will be subject to personal property taxation)			
Street or Other Mailing Address		City State Zip Code			
If leased, will this property be leased or rented for less than one year?		<input type="checkbox"/> YES <input type="checkbox"/> NO			
QUALIFYING AGRICULTURAL MACHINERY AND EQUIPMENT					
Description of Property (List Each Item Separately)	Date Purchased/ Leased Mo. Day Yr.	Net Purchase/ Lease Price	Local Jurisdiction Imposing Tax	Local Sales and Use Tax Paid	Nebraska Sales and Use Tax Paid
1					
2					
3					
4					
5					
6 Total local sales and use tax paid.....				6	\$
7 Total Nebraska sales and use tax paid.....				7	\$
8 Total refund claimed for Nebraska and local sales and use tax paid (total of lines 6 and 7). No refund will be made if the total amount claimed is less than \$2.00.....				8	\$
I declare, under penalty of law, that I have executed this claim, and to the best of my knowledge and belief, it is correct and complete. I also declare that payment of this claim has not been previously made by the state, nor have I claimed or received a refund from the state.					
sign here		Signature of Purchaser, Lessee, or Agent		Printed Name	Date

For more detailed information, refer to the [Form 7AG-1 instructions](#).

Agri-Business
Spring 2012 - 26

Form 7AG-1, continued

ACTION TAKEN BY THE NEBRASKA DEPARTMENT OF REVENUE		AMOUNTS APPROVED			
		Purchase/Lease Price	Code	Local Sales and Use Tax Paid	Nebraska Sales and Use Tax Paid
<input type="checkbox"/> APPROVED		1			
<input type="checkbox"/> APPROVED AS REVISED, SEE COMMENTS OR LETTER DATED		2			
<input type="checkbox"/> DISAPPROVED, SEE COMMENTS OR LETTER DATED		3			
COMMENTS:		4			
		5			
				6	\$
				7	\$
				8	\$
Authorized Signature		Date			

Mail this claim and supporting documentation to: NEBRASKA DEPARTMENT OF REVENUE, P.O. BOX 98903, LINCOLN, NE 68509-8903

IF PROPER DOCUMENTATION IS NOT INCLUDED, YOUR CLAIM CANNOT BE PROCESSED.

Visit our Web site www.revenue.ne.gov or call 1-800-742-7474 (toll free in NE and IA) or 1-402-471-5729.

NEBRASKA DEPARTMENT OF REVENUE — White Copy TAXPAYER — Retain carbon copy for your income tax records

8-943-1001 Rev. 9-2005
Supersedes 8-943-1000 Rev. 3-2005

Agri-Business
Spring 2012 - 27

4. PERSONAL PROPERTY TAX

Agri-Business
Spring 2012 - 28

4. PERSONAL PROPERTY TAX

- All depreciable ag equipment must be reported for personal property tax purposes, **EVEN IF** sales tax is paid on the item.
- Property tax is not related to sales tax.

*Refer to
Sales and Use Tax [Regulation 1-094.05](#) –
Agricultural Machinery and Equipment Refund, and
[Personal Property on the Property Assessment website](#)
for additional information.*

Agri-Business
Spring 2012 - 29

4. Personal Property Tax (continued)

- All depreciable tangible personal property owned as of January 1 at 12:01 a.m. each year must be reported.
- A [Nebraska Personal Property Return](#) is filed with the county assessor.
- The return must be filed each year on or before May 1.

Agri-Business
Spring 2012 - 30

5. CONTRACTOR ISSUES

Agri-Business
Spring 2012 - 31

5. CONTRACTOR ISSUES

When work on ag equipment involves charges for **contractor labor**:

- Contractor labor is sales tax exempt; and
- The contractor option chosen determines taxability of purchases of ag equipment or any repair parts.

Agri-Business
Spring 2012 - 32

Option 1 Contractor

➤ Transactions with the Supplier

- The Option 1 contractor can purchase building materials and fixtures for resale.
- They must give their Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.

➤ Transactions with the Farmer/Rancher

- The Option 1 contractor must collect sales tax on separately stated charges for building materials and fixtures **UNLESS...**
- A properly completed Form 13, Section B, Category 2, is obtained for qualified agricultural machinery and equipment (for example, a stirrator in a grain bin).

Agri-Business
Spring 2012 - 33

Option 2 Contractor

➤ Transactions with the Supplier

- The Option 2 contractor pays sales or use tax on its purchase of building materials and fixtures.

➤ Transactions with the Farmer/Rancher

- The Option 2 contractor will **NOT** collect sales tax on any portion of the invoice and **CANNOT** accept a Form 13.

Agri-Business
Spring 2012 - 34

Option 3 Contractor

➤ Transactions with the Supplier

- The Option 3 contractor buys building materials and fixtures tax exempt.
- They must give their Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.

➤ Transactions with the Farmer/Rancher

- The Option 3 contractor must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
- They will **NOT** collect sales tax on any portion of the invoice and **CANNOT** accept a Form 13.

Agri-Business
Spring 2012 - 35

5. Contractor Issues (continued)

Nebraska Department of REVENUE		Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption		FORM 13
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER		
Name		Name		
Street or Other Mailing Address		Street or Other Mailing Address		
City State Zip Code		City State Zip Code		
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.				
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:				
Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)				

SECTION C—For Contractors Only	
1. Purchases of Building Materials or Fixtures:	
<input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01.	
2. Purchases Made Under Purchasing Agent Appointment on behalf of _____ (insert entity)	
<input type="checkbox"/> Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.	

For more detailed information,
refer to the [Form 13 instructions](#) and [Reg-1-017](#), Contractors.

Agri-Business
Spring 2012 - 36

6.

PURCHASES THAT DO NOT QUALIFY

Agri-Business
Spring 2012 - 37

6. Purchases that Do Not Qualify

**Buildings and most structures
DO NOT QUALIFY for the
ag equipment exemption.**

- Concrete feed bunks do not qualify if they are permanently attached.
- Barns and outbuildings do not qualify.
- Grain bins do not qualify.
- **However, the stirrator in the grain bin DOES QUALIFY for the exemption.**

Agri-Business
Spring 2012 - 38

7.

7A. AG FEED 7B. SEEDS AND PLANTS 7C. MEDICINES 7D. CHEMICALS & 7E. WATER

[FOR QUALIFYING ANIMALS,
NONQUALIFYING ANIMALS, & CROPS]

Agri-Business
Spring 2012 - 39

QUALIFYING ANIMALS

Feed, seeds and plants, medicines, chemicals, and water for animal life that produce food and clothing (**qualifying animals**) can be purchased sales tax exempt.

- | | |
|--------------|-----------|
| • Bees | • Sheep |
| • Cattle | • Swine |
| • Chickens | • Turkeys |
| • Game birds | |

Agri-Business
Spring 2012 - 40

NONQUALIFYING ANIMALS

Feed, seeds & plants, medicines, chemicals, and water for animals that do not produce food (**nonqualifying animals**) are **subject to tax**.

Examples (include, but are not limited to) -

- Domesticated elk and deer
- Horses, donkeys, mules, and work animals
- Ostriches and emus
- Pets (birds, cats, dogs, etc.)

This includes any non-food producing breeding stock.

41

7A. AG FEED

Purchases of feed used in the caring for qualifying animals are sales tax exempt.

Examples -

- Hay
- Grit
- Minerals and vitamins
- Salt blocks
- Silage

Agri-Business
Spring 2012 - 42

7B. AG SEEDS & PLANTS

Purchases of **seeds and plants** for use in commercial agriculture are sales tax exempt.

Seeds and plants are sales tax exempt when used in commercial agriculture by -

- Greenhouses
- Nurseries
- Tree farms

Agri-Business
Spring 2012 - 43

7B. Ag Seeds & Plants (continued)

To buy seeds and plants sales tax exempt for use in commercial agriculture:

- Complete [Form 13](#), Section B, Category 2, and give it to your seller.

Agri-Business
Spring 2012 - 44

7B. Ag Seeds & Plants (continued)

Seeds and plants **CANNOT** be purchased sales tax exempt when used for the following planting purposes -

- Residential or commercial lawns
- Private ornamental gardens
- Private golf courses
- Seed for land that is removed from production

Agri-Business
Spring 2012 - 45

7C. VETERINARY MEDICINES

Purchases of veterinary medicines are sales tax exempt when used for:

- prevention or treatment of disease of qualifying animals; and
- treatment of the injuries of qualifying animals.

Examples (include, but are not limited to) -

- Drugs
- Antibiotics
- Antitoxins

Agri-Business
Spring 2012 - 46

7D. AG CHEMICALS FOR ANIMALS

When ag chemicals are used for these commercial ag purposes, they are sales tax exempt:

- Controlling pests of qualifying animals;
 - Pesticides
 - Insecticides
- OR -
- Affecting a qualifying animal's growth.
 - Growth-regulating chemicals and hormones

Agri-Business
Spring 2012 - 47

7D. AG CHEMICALS FOR CROPS

Ag chemicals applied to land or crops in commercial agriculture may be purchased sales tax exempt.

Exempt examples include -

- Fertilizers
- Herbicides
- Fungicides
- Insecticides

Agri-Business
Spring 2012 - 48

7. WHEN TO USE FORM 13 FOR THE AG EXEMPTION

A [Form 13](#) is **required** when the product can be used in the treatment and care of **BOTH**:

- Qualifying; and
- Nonqualifying animals.

A Form 13 is **NOT** required when the product is labeled by the manufacturer as solely to be used for treatment or care of qualifying animals.

Agri-Business
Spring 2012 - 49

8. WATER & ENERGY SOURCE UTILITY EXEMPTION

Agri-Business
Spring 2012 - 50

8. WATER USED FOR AG PURPOSES

Water is tax exempt when more than 90% of the water billed through the meter is used for one or more of the following tax exempt purposes:

- Irrigation of agricultural lands; or
- Care for qualifying animals.

A [Form 13](#) must be issued to the utility when claiming this exemption, unless the utility assigns a formal usage classification.

Agri-Business
Spring 2012 - 51

8. ENERGY SOURCE UTILITY EXEMPTION

A qualified energy source is sales tax exempt when more than 50% of the energy is used for:

- Commercial feed grinding;
- Commercial grain drying;
- Farming; or
- Irrigation.

To purchase energy sources sales tax exempt, give a [Form 13E](#) to the seller.

Refer to Sales and Use Tax Regulation [1-089](#) – Energy Source Utility Exemption, for more information.

Agri-Business
Spring 2012 - 52

8. Energy Source Utility Exemption (continued)

➤ Example of Qualified Use -

The electricity billed through a single meter at a hog confinement building **qualifies** (more than 50% rule).

➤ Example of Nonqualified Use -

The energy used in the farmer/rancher's repair shop **DOES NOT QUALIFY**.

Agri-Business
Spring 2012 - 53

Form 13E

REVENUE		Nebraska Energy Source Exempt Sale Certificate		FORM 13E
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER		
Name		Name		
Street or Other Mailing Address		Street or Other Mailing Address		
City State Zip Code		City State Zip Code		
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket <small>If Blanket is checked, this certificate is valid until revoked in writing by the purchaser.</small>				
Purchaser's Account Number		Was an energy audit (sewer) completed prior to issuing this certificate to the seller? <input type="checkbox"/> YES <input type="checkbox"/> NO		
Describe your business operations:				
<input type="checkbox"/> A. Our purchase of electricity or compressed natural gas is exempt from Nebraska sales and use tax because more than 50 percent of the energy charge through meter number(s) _____ has been properly determined to be used or directly consumed in: (check appropriate box) <input type="checkbox"/> Manufacturing and Processing <input type="checkbox"/> Farming <input type="checkbox"/> Generation of Electricity <input type="checkbox"/> Irrigation <input type="checkbox"/> Refining				
<input type="checkbox"/> B. Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, butane, propane, or gas is exempt from Nebraska sales and use tax because more than 50 percent of the amount purchased is used or directly consumed in: (check appropriate box) <input type="checkbox"/> Manufacturing and Processing <input type="checkbox"/> Farming <input type="checkbox"/> Generation of Electricity <input type="checkbox"/> Irrigation <input type="checkbox"/> Refining				
<small>Any purchaser, or the agent thereof, or other person who completes this certificate for any purchase which is not otherwise exempted from the sales and use tax under the Nebraska Revenue Act, as amended, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100.00 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, said penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under the penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.</small>				
sign here		Authorized Signature of Purchaser		Title Date Issued

For more detailed information, refer to the [Form 13E Instructions](#).

Agri-Business
Spring 2012 - 54

SUMMARY OF COMMERCIAL AG PURCHASES

Recognize what is taxable and know how to document what is tax exempt.

- Ag equipment exemption [Form 13, Section B](#) (Taxable)
- Other equipment (Taxable)
- Building and structures (Taxable)
- Manufacturer-labeled ag seed Exempt, no form required
- Other seed (Taxable)

more... Agri-Business
Spring 2012 - 55

Summary of Commercial Ag Purchases (continued)

Recognize what is taxable and know how to document what is tax exempt.

- Dual use chemicals [Form 13, Section B](#)
- Manufacturer-labeled ag chemicals Exempt, no form required
- Other chemicals (Taxable)
- Ag medicines & feed [Form 13, Section B](#)
- Non-ag medicines & feed (Taxable)
- Energy source exemption [Form 13E](#)
- Water exemption [Form 13, Section B](#)

Agri-Business
Spring 2012 - 56



**Let us know what you think.
Please turn in your evaluation!**

THANK YOU!

[name]

[\[name\]@nebraska.gov](mailto:[name]@nebraska.gov)

[number]

www.revenue.ne.gov